IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

S.B. CIVIL WRIT PETITION NO. 3284/2005
(Bheem Singh Vs. State of Rajasthan & Anr.)

Date of Order : 17/01/2007

**PRESENT**

**HON'BLE MR. JUSTICE H.R.PANWAR**

Mr. Parmendra Bohra for the petitioner.
Mr. Rameshwar Dave, Dy. Govt. Advocate for the respondents.

**BY THE COURT**:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to grant him third selection grade on completion of 27 years of service w.e.f. 5.1.2000 instead of w.e.f. 5.1.2003.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the respondents failed to grant third selection grade w.e.f. 5.1.2000 and therefore, the petitioner issued a notice for demand of justice through his counsel on 25.7.2003 seeking to grant third selection grade w.e.f. 5.1.2000. In the reply to the said notice, the respondent No.2 vide Annex.2 dated 2.8.2003 informed that vide order dated 2.4.1994, a punishment of

censure was imposed on the petitioner and again by order dated 28.3.1995 a punishment of censure was imposed and thereafter by order dated 31.8.1995, a punishment of stoppage of one annual grade increment without cumulative effect was imposed and therefore, considering these three punishments, the petitioner is entitled for the third selection grade w.e.f. 5.1.2003 instead of 5.1.2000.

Learned counsel for the petitioner submits that imposing punishment of censure cannot come in the way for grant of selection grade to the petitioner, and therefore, the order granting third selection grade deserves to be modified to the extent that the petitioner is entitled for third selection grade w.e.f. 5.1.2001. So far as not granting third selection grade to the petitioner w.e.f. 5.1.2000 is concerned, the punishment of stoppage of annual grade increment without cumulative effect would certainly come in his way. Learned counsel has relied on a Division Bench decision of this Court in Devi Singh Vs. State of Rajasthan and Ors. 2004 (2) CDR 925 (Raj.) and a recent decision of this Court in Narendra Kumar Vs. State of Rajasthan and Anr. S.B.Civil Writ Petition No. 4865/2003 decided on 3.1.2007.

In Devi Singh Vs. State of Rajasthan and Ors. (supra) Division Bench of this Court held that the grant of selection scale under order dated 25.1.1992 is akin to personal

promotion scheme and a personal advancement in pay scale scheme without reference to anybody else. Therefore, it did not involve any element of selection or comparative merit and therefore, the premise on the basis of which the learned Single Judge came to the conclusion that because the petitioner suffered a punishment of censure, he was not entitled to be considered for selection scale which is a promotion by merit, cannot be sustained.

Following the decision of the Division Bench in Devi Singh Vs. State of Rajasthan and Ors. (supra) this Court in Narendra Kumar Vs. State of Rajasthan and Anr. (supra) held that punishment of censure cannot come in the way of grant of selection grade to the petitioner therein.

Keeping in view, the decisions of this Court referred herein above, in my view, two punishment of imposing censure by orders dated 2.4.1994 and 28.3.1995 cannot come in the way of the petitioner for grant of third selection grade. However, imposing punishment of one annual grade increment without cumulative effect would definitely come in the way of the petitioner for grant of selection grade and therefore, the petitioner is entitled for the third selection grade w.e.f. 5.1.2001 instead of w.e.f. 5.1.2003.

In the result, the writ petition is allowed and it is ordered that the petitioner is entitled to third selection grade

w.e.f. 5.1.2001 instead of w.e.f. 5.1.2003 with all consequential benefits. The Application being I.A. No.4245/06 also stands disposed of. There shall be no order as to costs.

**(H.R.PANWAR),J.**

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